

UNITED STATES DISTRICT COURT  
NORTHERN DISTRICT OF CALIFORNIA

SHIJIN VAPOR LLC,  
Plaintiff,

v.

BOLT USA, LLC,  
Defendant.

Case No. 20-cv-5238-PJH

**ORDER RE DISCOVERY LETTER  
BRIEF**

Re: Dkt. No. 48

The parties have filed a joint discovery letter brief regarding plaintiff's subpoenas of third-party One Up Vapor, LLC. See Dkt. 48. In the letter, plaintiff explains that it served deposition and document subpoenas on One Up Vapor. Id. at 1. Plaintiff first served the subpoenas electronically, after receiving agreement from One Up Vapor's owner to accept electronic service. Id. After One Up Vapor failed to respond to the subpoenas, plaintiff then served a document subpoena by personal service. Id. One Up Vapor again failed to respond. Id.

Plaintiff now asks the court for permission to file a motion to compel against One Up Vapor, and further requests that the discovery deadline be extended until after the motion to compel is heard. Dkt. 48 at 2. Fact discovery closed in this case on October 28, 2021. Id. at 1.

Defendant's primary argument is that plaintiff's request is untimely, and must therefore be denied. Defendant points to Civil Local Rule 37-3, which states that "no motions to compel fact discovery may be filed more than 7 days after the fact discovery cut-off." Defendant argues that, because the fact discovery cut-off was October 28, any

1 motion to compel needed to be filed by November 4. Dkt. 48 at 3. Because the present  
 2 joint discovery letter was not filed until November 11 (at the earliest)<sup>1</sup>, defendant argues  
 3 that plaintiff's request must be denied. Defendant further points out that plaintiff "provides  
 4 no reason why it continued to wait until now before seeking a motion to compel." Id. at 3.

5 Defendant is correct that plaintiff's request is untimely. This district's local rules do  
 6 require that motions to compel be filed within seven days after the close of discovery, and  
 7 plaintiff offers no explanation as to why the present letter could not have been filed within  
 8 the time limit prescribed by the rules. Accordingly, plaintiff's request is DENIED.

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 10 **IT IS SO ORDERED.**

11 Dated: November 15, 2021

12 /s/ Phyllis J. Hamilton

13 PHYLLIS J. HAMILTON  
 14 United States District Judge  
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27 <sup>1</sup> Plaintiff initially filed this letter on November 11, but the letter was filed incorrectly and  
 28 needed to be re-filed on November 15. See Dkt. 47, 48. For purposes of assessing  
 whether plaintiff's request is timely, the court will use the November 11 date.